

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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NURBU LAMA, NAMYGIAL DHONDUP,
also known as Chin Yuan Chu, and ZAMBALA
INC.

Plaintiffs,

-against-

NEW CENTURY FOUNDATION, YUAN
MIAO, EMILIA WANG, WU HONG,
ANGELA CHEN, DAVID HOLLAND,
DOUGLAS PETTIBONE, CRAIG J.
BEAUCHAMP, TOM MOORE, WINSTON
KEVIN MCKESSON, GO DADDY, and
FACEBOOK,

Defendants.
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1:19-cv-2169-GHW

ORDER

GREGORY H. WOODS, United States District Judge:

On October 10, 2019, Magistrate Judge Freeman issued a Report and Recommendation (“R&R”) recommending that Defendant Chen’s motion to dismiss (Dkt No. 8) be denied without prejudice. Dkt No. 52. In addition, Magistrate Judge Freeman recommended that the Court exercise its discretion *sua sponte* to transfer this action to the Northern District of California, pursuant to 28 U.S.C. § 1406(a). Objections to the R&R were due on October 24, 2019.

Plaintiffs filed a document entitled “Order to Transfer” that requests that the case be transferred to White Plains or Washington, D.C. and states that the R&R “was not provided to Kiran Meettook ESQ or MMI LAW Inc either by electronic service or physical mail.” Dkt. No. 53, at 1. The “Order to Transfer” does not object to transferring the case to the Northern District of California but rather requests (or orders) that the case be transferred to White Plains or Washington, D.C. The Court does not construe this document as an objection to the R&R because “objections

must be specific and clearly aimed at particular findings in the magistrate’s proposal,” which the “Order to Transfer” is not. *Read v. Superintendent Mr. Thompson*, 13CV6962KMKPED, 2016 WL 165716, at *11 n.17 (S.D.N.Y. Jan. 13, 2016) (quotation and ellipsis omitted). The Court further notes that Ms. Meettook is a lawyer and thus is not entitled to the “special solicitude” afforded to pro se litigants. *Ruotolo v. I.R.S.*, 28 F.3d 6, 8 (2d Cir 1994).

In any event, there is no basis to conclude that this case should be assigned to White Plains. *See* Local Rules of the United States District Courts for the Southern and Eastern Districts of New York, *Rules for the Division of Business Among District Judges*, Rule 18: Designation of White Plains Cases, <http://www.nysd.uscourts.gov/rules/rules-2018-10-29.pdf>, at 117. Similarly, there is no basis for the Court to transfer the case to Washington, D.C. because, unlike the Northern District of California—the district that Magistrate Judge Freeman identified—there is no basis to conclude that this case could have been brought there. In addition, the Court notes that the Notice of Electronic Filing records that the R&R was delivered to “KIRAN MEET*TOOK MMI LAW INC” at the email address “km@mmilaw.org.” “In cases assigned to the ECF system, service is complete provided all parties receive a Notice of Electronic Filing (NEF) . . . Transmission of the NEF constitutes service upon all Filing and Receiving Users who are listed as recipients of notice by electronic mail.” ECF Rule 9.1, <http://www.nysd.uscourts.gov/ecf/ECF%20Rules%2020119%20Final.pdf>, at 8. Thus, Ms. Meettook was properly served.


The Court has reviewed the R&R for clear error and finds none. *See Braunstein v. Barber*, No. 06 Civ. 5978 (CS) (GAY), 2009 WL 1542707, at *1 (S.D.N.Y. June 2, 2009) (explaining that a “district court may adopt those portions of a report and recommendation to which no objections have been made, as long as no clear error is apparent from the face of the record.”). The Court therefore accepts and adopts the R&R in its entirety. Accordingly, the Court transfers this case to the Northern District of California pursuant to 28 U.S.C. § 1406(a).

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore *in forma pauperis* status is denied for the purpose of an appeal. *Cf. Coppedge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that an appellant demonstrates good faith when he seeks review of a nonfrivolous issue).

The Clerk of Court is directed to transfer this case to the Northern District of California without delay pursuant to 28 U.S.C. § 1406(a).

SO ORDERED.

Dated: October 28, 2019
New York, New York



GREGORY H. WOODS
United States District Judge